

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

John Hawkins and HawkLaw, PA,

Plaintiffs,

vs.

The South Carolina Commission on
Lawyer Conduct and The South Carolina Office
of Disciplinary Counsel,

Defendants.

Civil Action No. 3:21-cv-01319-JMC

**DEFENDANTS' MOTION
FOR LEAVE TO FILE SUR-REPLY TO
PLAINTIFFS' REPLY IN SUPPORT OF
MOTION TO COMPEL**

Defendants, The South Carolina Commission on Lawyer Conduct and The South Carolina Office of Disciplinary Counsel (collectively, "Defendants"), by and through undersigned counsel, respectfully request this Court's leave to file a Sur-Reply to Plaintiffs' Reply, filed on December 10, 2021 (Dkt. No. 41), in Support of Plaintiffs' Motion to Compel (Dkt. No. 25).

While the Federal Rules of Civil Procedure and this Court's Local Rules generally do not contemplate or otherwise provide for the filing of sur-replies, they have been permitted under certain circumstances by the district courts in the District of South Carolina. *See, e.g., Palmer v. Santanna*, No. 2:16-cv-03350-PMD-MGB, 2018 WL 3120648, at *1 (D.S.C. Jan. 30, 2018); *Mitchell v. Conseco Life Ins. Co.*, No. CA 8:12-548-TMC, 2013 WL 2407129, at *3 (D.S.C. June, 2013); *see also* Standing Order on Sur-Replies of Judge Donald C. Coggins Jr. (D.S.C. May 21, 2021).

In the instant case, Defendants respectfully request that they be permitted to file a brief Sur-Reply addressing the limited issue of the timeliness of Defendants' Response in Opposition to Plaintiffs' Motion to Compel. (Dkt. No. 39). Based on what appears to be a misunderstanding between counsel, and on the part of Defendants' counsel, as well as based on the discussion during

the December 9, 2021, hearing with the Court and counsel for the parties, Defendants' counsel did not address the timeliness question in their Response as they did not understand it to be at issue.

Defendants respectfully submit that permitting them to file their proposed Sur-Reply would provide the full context on the timeliness issue raised by Plaintiffs in their Reply. (*See* Defendants' Proposed Sur-Reply, attached hereto as Exhibit A). In sum, Defendants believe that filing the proposed Sur-Reply is necessary as they believe there was a misunderstanding on the part of counsel for the parties regarding the deadline and timeliness of Defendants' December 9, 2021 Response.

Pursuant to Local Rule 7.02, counsel for Defendants consulted with Plaintiffs' counsel before filing the instant Motion, but Plaintiffs' counsel was unable to either give consent nor state his opposition to this Motion.

Respectfully submitted,

/s/ Angus H. Macaulay

Susi P. McWilliams, Fed. ID No. 3351

smcwilliams@nexsenpruet.com

Angus H. Macaulay, Fed. ID No. 5248

amacaulay@nexsenpruet.com

Sara S. Svedberg, Fed. ID No. 11928

ssvedberg@nexsenpruet.com

Brittany N. Clark, Fed. ID No. 12891

bclark@nexsenpruet.com

NEXSEN PRUET, LLC

1230 Main Street, Suite 700 (29201)

Post Office Drawer 2426

Columbia, SC 29202

PHONE: 803.771.8900

FACSIMILE: 803.727.1435

*Counsel for Defendants, The South Carolina
Commission on Lawyer Conduct and The South
Carolina Office of Disciplinary Counsel*

December 10, 2021
Columbia, South Carolina